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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2460 OF 2006

The Satara Zilla Madhyawaqrti
Grahak Sangh Ltd., Satara. ... Petitioner

V/s

Shri Uttam Baburao Shinde & ors. ... Respondents

Mr. P.K. Deshmukh for the petitioner.

None for the respondents.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 13TH APRIL, 2007.

P.C.:

1. This application has been filed against the order of the Controlling Authority under the Payment of Gratuity Act and the appellate authority under the same Act. The respondent No.1 had been dismissed from service. An application under the Payment of Gratuity Act was filed by him claiming gratuity. This application has been allowed by the Controlling Authority. The petitioner had submitted before the Controlling Authority that the workman had taken a loan from the petitioner and had given an undertaking to the petitioner that in the event the loan remains unpaid the same would be deducted from

his gratuity and, therefore, it had paid a lesser amount. Both the authorities below had taken the view that this action of the employer is not permissible. The review filed by the petitioner also met with the same fate.

2. In my view, there is no need to interfere with the orders of the Authorities below. The Payment of Gratuity Act does not permit deduction of any kind, muchless on account of loan, from the amount of gratuity to which an employee is entitled. Section 14 of the act stipulates that provisions of the Act have an over riding effect over any other enactment or instrument or contract. It is only under Section 4(6) that an employer has a right to forfeit gratuity under certain circumstances stipulated therein. In the event the petitioner has any grievance about the non-payment of the loan, the petitioner has other remedies which it can take recourse to.

3. Petition dismissed.

(SMT. NISHITA MHATRE, J.)